

>>> John Hammond <jbhammond@att.net> 10/3/2010 11:34 PM >>>

TO: Corbin R. Davis

Clerk, Michigan Supreme Court

RE: ADM 2010-16

The two proposed versions of the language in MCR 6.302 and MCR 6.610 are not adequate to prevent a Padilla vs. Kentucky problem from occurring in Michigan.

At the same time elaborate, extensive inquiry by the court in every case would bog down proceedings unnecessarily.

I suggest the following:

1. Very early in the proceedings, ask the defendant "When and where were you born?"
2. If the answer is that defendant's birthplace was in the United States, nothing further is required by reason of Padilla vs. Kentucky. (CF amendment XIV to the U. S. Constitution.) (The possibility of birth to a parent who is a diplomat from a foreign country is too remote to warrant further inquiry.)
3. If the defendant is not a native-born citizen of the United States, follow the format recommended by the Criminal Issues Initiative Workgroup of the State Bar as to MCR 6.302 and 6.610.
4. If the defendant is a citizen, but not a "native-born" citizen, additionally advise defendant and counsel that under 8 CFR 337.2 fraud (including false answers on Form N-445, The Notice of Oath Ceremony) is grounds for revocation of Naturalization.

All of the foregoing should be done prior to the taking of any facts to support the plea of guilty.

If necessary, adjourn the proceedings, rather than create future problems.

John T. Hammond P14585

hammjohn@umich.edu